

In The United States Patent and Trademark Office

In re application of: Michael D. Zoeckler) Confirmation No: 2557
Application No: 09/559,704) Group Art Unit: 3721
Filed: April 27, 2000) Examiner: Harmon, Christopher R
For: PAPERBOARD CARTONS WITH LAMINATED) Docket No: R029 1056 (7137-US)
REINFORCING RIBBONS AND METHOD)
OF MAKING SAME)

PETITION FOR REVIEW OF PATENT TERM EXTENSION DETERMINATION

(37 C.F.R. § 1.181)

Mail Stop Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant respectfully requests that the Determination of Patent Term Adjustment dated June 5, 2012 be reconsidered. The Patent Term Adjustment calculation resulting in the asserted 0 days is believed to be incorrect. Applicant filed the present application on April 27, 2000. Pursuant to 37 C.F.R. § 1.701, Applicant requests reconsideration of the patent term adjustment.

The correct amount of favorable adjustment is believed to be 1826 days. More specifically, this value is reached by assessing the believed PTO Delay of 1969 days less the believed Applicant Delay of 22 days. The resulting difference is 1947 days. However, pursuant to 37 C.F.R. § 1.701(b), the statutory limit is five years with any number of days in excess of five years being reduced to the maximum statutory limit. The five year period beginning at the expiration of the current patent's term encompasses 1826 days.

Pursuant to 37 C.F.R. § 1.701(a)(3) and 37 C.F.R. § 1.701(c)(3), Applicant is entitled to patent term extension for the number of days between the filing of an appeal under 35 U.S.C. 134 and the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court under 35 U.S.C. 141. Applicant believes the correct amount of favorable adjustment should be calculated as follows:

- For the period between the Applicant's Notice of Appeal filed on September 1, 2004 and the Panel Remand to the Examiner by the Board of Patent Appeals and Interferences dated March 24, 2006 – 569 days

- For the period between the Applicant's Notice of Appeal filed on May 12, 2006 and the Board of Patent Appeals and Interferences decision to Reverse the Examiner dated May 30, 2007 – 383 days
- For the period between the Applicant's Notice of Appeal filed on August 4, 2009 and the Board of Patent Appeals and Interferences decision to Reverse the Examiner dated May 17, 2012 – 1017 days
- Summing these three values results in a total of 1969 days.

Pursuant to 37 C.F.R. § 1.701(d), the period of delay calculated above shall be reduced by any time during the period of appellate review that occurred before three years from the filing of the first national application for patent presented for examination; and any time during the period of appellate review, as determined by the Director, during which applicant did not act with due diligence. Applicant believes the correct amount of reduction from the delay of 1969 days should be calculated as follows:

- For the period between the Applicant's Notice of Appeal filing of May 12, 2006 and the filing of Applicant's appeal brief of August 3, 2006 – 22 days (Calculated by subtracting the 61 days allowed for filing of the appeal brief from the 83 days that had elapsed before the appeal brief was indeed filed)

The difference between the 1969 day PTO Delay and the 22 day Applicant delay is 1947 days. This amount is further reduced by the 121 days in excess of the statutory limit of five years. The present application was filed on April 27, 2000 and the patent term is set to expire April 27, 2025. There are 1826 days from April 27, 2020 to April 27, 2025. Therefore, Applicant believes 1826 days is the correct amount for extension of the patent term.

Reconsideration and correction of the Patent Term Extension determination in accordance with the foregoing is respectfully requested. Please contact the undersigned if any further information is needed for the consideration of this Petition.

The Commissioner is hereby authorized to charge any filing fees for this Petition or credit any overpayment to Deposit Account No. 09-0528.

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Date

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